IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH FEBRUARY 2007 / 23RD MAGHA 1928

Crl.MC.No. 291 of 2007()

S.C.109/2001 SPECIAL COURT (SESSIONS), MANJERI
C.P.NO.57/2000 ON THE FILE OF JUDICIAL MAGISTRATE OF THE FIRST CLASS, TIRUR

PETITIONER: ACCUSED NO.2

SRI.HARIHARAN ALIAS HARI,
SON OF AYYAPPU, AGED 43, UNNIVEETTIL HOUSE,
PACHATTIRI AMSOM, PACHATTIRI DESOM,
TIRUR TALUK, PACHATTIRI P.O., TIRUR.

BY ADV. SRI.A.BALAGOPALAN
SRI.A.RAJAGOPALAN

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SRI.SATHEESH KUMAR, SON OF RAMAN,
AGED 33, THARAYIL PARAMBU VEEDU, VETTOM VILLAGE,
TIRUR TALUK.

BY PUBLIC PROSECUTOR, SRI.S.U.NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.291 of 2007

Dated this the 12th day of February 2007

O R D E R

The petitioner is the second accused in a prosecution interalia under Section 3(1) (x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act. The final report has been filed. Cognizance has already been taken. The matter is pending before the learned Sessions Judge, Manjeri. All the other accused except the petitioner and another accused have already been tried. They have been found not guilty and acquitted. The petitioner was employed abroad. He could not therefore appear and participate in the proceedings. He is now willing to appear before the learned Sessions Judge. He has come to this court with the prayer that the proceedings against him may be quashed, the co-accused having already been acquitted.

2. After discussions at the bar, the learned counsel for the petitioner in the light of the Full Bench decision in Moosa vs. Sub Inspector of Police [2006(1) KLT 552 (FB)] only prays that there may be a direction to the learned Magistrate to consider the petitioner's application for bail on merits, in accordance with law and expeditiously when he surrenders. He having not appeared before the courts for a long

period of time, he apprehends that the case against him may not be considered on merits, in accordance with law and expeditiously. He therefore prays that appropriate direction under Section 482 Cr.P.C may be issued.

3. It is for the petitioner to appear before the learned Sessions Judge and explain to the learned Sessions Judge, the circumstances under which he could not earlier appear before the learned Sessions Judge .

4. I find absolutely no reason to assume that the learned Sessions Judge would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

5. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioner surrenders before the learned Sessions Judge and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Sessions Judge must proceed to pass appropriate

orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are compelling reasons.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006